

✓



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,863	12/31/2001	Christopher P. Olson	KCC 4757 (K.C.No. 16,831	6380
321	7590	03/14/2006	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			ART UNIT	PAPER NUMBER

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/038,863

Applicant(s)

OLSON ET AL.

Examiner

Michele Kidwell

Art Unit

3761

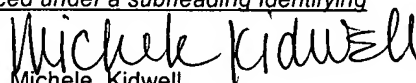
**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 21 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The applicant sets forth specific grounds of rejection to be reviewed on appeal in section VI of the appeal brief. However, each ground of rejection is not properly addressed. For example, paragraph B of section VI states that the appellant appeals the rejection of claim 1, 2, 11 - 18, 22 - 24 and 30. Yet, arguments provided on page 19, second full paragraph, state that claims 13 - 18, 20, 22 - 24 and 31 are submitted to be unanticipated and patentable for the same reasons as claim 12. Claims 20 and 31 were not rejected under this grounds of rejection and claim 31 was not a claim in which the rejection has been appealed. MPEP 1205.02 states that a concise statement of each ground of rejection should be presented for review. The application should accurately recite which grounds of rejection is to be reviewed on appeal with arguments supportive of that grounds of rejection reflected in the corresponding argument section. Likewise, MPEP 1205.02 also states that claims argued as a group should be placed under a subheading identifying the claims by number.

  
Michele Kidwell  
Primary Examiner  
Art Unit: 3761

**Continuation Sheet (Patents and Trademark-462)**

U.S. Patent and Trademark Office  
PTOL-462 (Rev. 7-05)

**Notification of Non-Compliant Appeal Brief (37 CFR 41.37)**

**Application No 08/112,233**

Part of Paper No. 030106